

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DONALD R. FOSHEE, CAROLYN)	
L. FOSHEE, MARILYN R. WILLIS,)	
SYLVIA J. YEWELL, MERVIN D.)	
YEWELL, MERVIN DWIGHT YEWELL,)	
LOIS L. YEWELL,)	
)	
Plaintiffs,)	
)	
v.)	No. 09-2674-JPM-dkv
)	
FORETHOUGHT FEDERAL SAVINGS)	
BANK, FORETHOUGHT LIFE)	
INSURANCE COMPANY and)	
COMMUNITY TRUST AND INVESTMENT)	
COMPANY,)	
)	
Defendants.)	

**ORDER ADOPTING REPORT AND RECOMMENDATION AND ORDER DENYING
PLAINTIFFS' MOTION TO STRIKE**

Pending before the Court is the Report and Recommendation of Magistrate Judge Diane K. Vescovo, submitted May 7, 2010 (Docket Entry ("D.E.") 43), recommending that (1) Plaintiffs' Motion to Strike (D.E. 29) be denied and their objections to the Reply and the Shelton Declaration be noted on the record; (2) that with the exception of paragraph 9 of the Shelton Declaration, the Court consider both the Reply and the Shelton Declaration in ruling on the Forethought Defendants' Motion to

Dismiss for lack of subject matter jurisdiction; and (3) that the Court hold a limited evidentiary hearing on the issue of subject matter jurisdiction only. No objections to the Report and Recommendation have been filed, and the time for filing objections has expired.

Upon de novo review of the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation in its entirety, and DENIES Plaintiffs' Motion to Strike. A telephonic hearing on the issue of subject matter jurisdiction has been set for July 1, 2010 at 2:30 p.m.

SO ORDERED this 24th day of May, 2010.

/s/ JON PHIPPS McCALLA
CHIEF UNITED STATES DISTRICT JUDGE